

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-002230

10/27/2014

HON. DAWN M. BERGIN

CLERK OF THE COURT
M. Nielsen
Deputy

FRANK S KASHA, et al.

LYNN MARIE BRODERICK

v.

SALVADOR CASTANEDA III

SUPPLEMENTAL FINDINGS REGARDING TRO

On September 29, 2014, the Court held an evidentiary hearing on Plaintiff's Motion for Preliminary Injunction and Temporary Restraining Order. At the conclusion of the hearing, the Court entered a Temporary Restraining Order. It hereby supplements the Order with the following findings:

1. On or about July 27, 2012, Plaintiffs, owners of "Parcel V," and James and Valerie McIntyre, the former owners of "Parcel Y," (parcels more fully described in Ex. A to Decl. of Frank Kasha), executed a Shared Well Lease Agreement (the "Well Agreement"). The Well Agreement provided for Plaintiffs' access to and unlimited use of the well located on Parcel Y.
2. On or about September 13, 2012, the Well Agreement was recorded with the Maricopa County Recorder's Office.
3. In December 2013, Defendant purchased Parcel Y and was made aware of the Well Agreement.

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4. For approximately nine months, Defendant complied with the terms of the Well Agreement, providing Plaintiffs access to the well.
5. On or about September 7, 2014, Defendant ceased compliance and denied Plaintiffs access to the well.
6. Because the well was the only source of water for Plaintiffs' home and property, Plaintiffs were left with no running water in their home and had to resort to purchasing water for their personal use.
7. Plaintiffs have paid all fees for the use of the well as required by the Well Agreement.
8. Defendant drew up a separate agreement regarding the well, to which Plaintiffs were not parties, which he claims supersedes the Well Agreement. However, he did not produce sufficient evidence that would support such a claim or outcome.

THE COURT THEREFORE FINDS that:

- Plaintiffs have a strong likelihood of succeeding on the merits as they have presented valid legal documents to support their claim;
- There is a possibility of irreparable injury to the Plaintiffs due to the denial of access to water for their home and property;
- The balance of hardships tips sharply in favor of the Plaintiffs as they have been deprived access to running water while the Defendant has received full payment for the use of the well; and
- Public policy supports injunctive relief as it favors the enforcement of properly executed and recorded encumbrances on real property.